

# EMOTIONAL INSANITY

## THE THAW DEFENSE

To Say White Drugged, Ruined,  
and Insulted Mrs. Thaw.

THAW SOUGHT COMSTOCK'S AID

But Comstock Declares He Couldn't  
Quite Get White on Other  
Charges—A Murder In-  
dictment.

Harry Kendall Thaw was adjudged guilty of the killing of Stanford White, the architect, by a Coroner's Jury yesterday morning, and soon after the verdict had been returned was indicted for murder in the first degree. He will be arraigned this morning before Judge Cowling in General Sessions. When he faces a jury it will be the object of the attorneys for the defense to prove that at the time of the tragedy he was suffering from "emotional insanity."

It will not be contended by the defense that Thaw is insane now. Such a plea would hardly stand in the face of the findings of the commission of alienists appointed by the Acting District Attorney to inquire into Thaw's mental condition, and if it was sustained would mean his incarceration in the Asylum for the Criminal Insane at Matteawan.

The line of defense determined upon yesterday means a trial, and it was freely predicted yesterday by lawyers in the case that in this trial will be brought out in full the story of the relations of Thaw, accused of murder; White, his victim, and Evelyn Nesbit Thaw, wife of the defendant. If the jury decides that the plea of "emotional insanity" is justified, Thaw will go forth a free man.

Will Say Thaw Was Goaded.

The defense will endeavor to show that Evelyn Nesbit, when a mere child, was drugged and ruined by White, and that after her marriage to Thaw White took advantage of every opportunity to thrust himself upon her notice. It will offer evidence that he was wont to talk insultingly of the relations he had had with her, and that Thaw, learning of White's remarks, was worked up to a high pitch of resentment.

That Thaw bought a revolver to kill White, or that the killing was premeditated, will be denied. The defense is prepared to prove that Thaw had been accustomed, for more than two years, to carry a revolver. About two years ago, according to evidence in its possession, Thaw was attacked by thugs while out late one night, and since that time had carried a weapon.

The District Attorney's office, having established, to its own satisfaction, Thaw's present sanity, began yesterday a John Doe inquiry designed to throw all the light possible on the life stories of the three principals in Monday night's murder. Every acquaintance of White, Thaw, or Mrs. Thaw who is in a position to tell of their habits and the happenings in their lives will be subpoenaed and examined. In the event of refusal to submit to examination by the District Attorney, witnesses subpoenaed under this proceeding will be taken before the Grand Jury. Should they persist there in their silence, action will be taken in court to compel them to speak.

Thaw Went to Comstock.

It developed yesterday through Thaw himself that he had for some time prior to his marriage cherished enmity against White. After the inquest he telephoned to the office of Anthony Comstock, requesting the President of the Society for the Suppression of Vice to call upon him in the Tombs. The message was sent against the advice of Thaw's counsel, and when a representative of Comstock reached the prison later in the day, access to the prisoner was denied to him.

Comstock had no hesitancy in supplying an explanation of Thaw's action. He said that for a year and a half he had been supplied with information regarding White's practices by the man who is now accused of White's murder. Thaw, he said, seemed very anxious to punish White for his conduct with young women. In more than one instance, according to Comstock, when it seemed that a clear case had been made against White, the victims of the man were spirited out of town. Comstock said that he would visit the Tombs to-day. When he calls he will not be permitted to see Thaw until after he has talked with ex-Judge Olcott, leading counsel for the defense.

Mrs. Thaw Faints.

Mrs. Thaw, who was prevented against her wishes from attending the inquest, was taken before the Grand Jury, but was not required to answer any questions. While in the presence of that body she was treated with the utmost courtesy, and when she expressed an unwillingness to talk, was permitted to leave. She will hardly be recalled. After her appearance in the Grand Jury room she paid a visit to her husband in the Tombs, and then sought her hotel. There the strain under which she has been living since Monday night at last had its effect. She had hardly reached her apartments when she fainted, and it was necessary to call in a doctor to revive her.

Dr. Allan McLane Hamilton, the alienist employed by the defense, with Terence J. McManus of counsel for the defense, visited Thaw in the Tombs yesterday afternoon and subjected him to a thorough examination, both physical and mental. Dr. Frank T. McGuire, the Tombs physician, tried to gain entrance to the room in which the examination was in progress, but admission was refused. He so reported to Assistant District Attorney Garvan.

On leaving Thaw Dr. Hamilton said that he would report his findings to ex-Judge Olcott this morning, and that until he had done so he did not care to discuss the matter. He said that he had explained to Dr. McGuire that the examination was private, and that Dr. McGuire had not insisted on being present.

It was reported about the Criminal Courts Building yesterday afternoon that Thaw's counsel would ask for a change of venue, and that Lawyer Watson of



Pittsburg, who has been retained by the Thaw family, would make the motion, on the ground that there was a prejudice against Thaw in New York County and that he could not get a fair trial here. This was subsequently denied.

Stanford White was buried yesterday at St. James, L. I. The holding of the inquest into his death had been set for 9:30 o'clock.

#### Crowd at the Inquest.

At that hour there was a surging crowd around the Criminal Courts Building. Coroner Dooley's room was packed an hour ahead of time, despite the fact that all were barred except witnesses, reporters, photographers, and artists. There were many reporters present from Philadelphia and Pittsburg.

Assistant District Attorney Garvan conducted the case of the State. Acting District Attorney Nott was also in the room. Thaw's entire array of counsel, headed by ex-Judge Olcott, was on hand. Among those in attendance was Dr. McGuire.

"There is absolutely no truth in the story that Thaw is a dope fiend," said Dr. McGuire, "or that he is a slave to drink. He has been in prison two days now, and he has neither asked for any drug nor shown any craving for one. He has not seemed to crave drink, and there has been no physical reaction, as there would have been had he been a slave to either drugs or drink."

Dr. McGuire has expressed the opinion that Thaw is entirely normal. The only peculiarity about him is an expression of the eye, but this, according to the medical view, is congenital.

Thaw was taken from the Tombs, handcuffed between Policemen Kennedy and Fourke. He took a seat by ex-Judge Olcott and calmly waited for the inquest to begin. While he was talking to his lawyer, a message came to Mr. Olcott from Mrs. Thaw, who was at the office of her husband's chief counsel. She wished to know if she might not attend the inquest.

"I think my place is by my husband's side," she said.

The lawyer advised her to remain where she was until she was called before the Grand Jury, explaining that in view of the ordeal awaiting her there he did not think it proper that she should subject herself to needless fatigue or anxiety. She took his advice.

The twelve jurors selected consisted of three butchers, two grocers, two plumbers, two tailors, a jeweler, a coal dealer, and a dry goods man. The foreman was Nicholas L. Stokes of 552 West End Avenue. When they had been sworn and taken their seats, Coroner's Physician Lohane, who performed the autopsy on White's body, was put on the stand.

#### Thaw Was Apathetic.

Up to this time Thaw had displayed a total lack of interest in the proceedings. He looked little like a man of fashion. There was a two-day growth of beard, showing dark against the pallor of his face, and instead of a collar he wore a handkerchief about his neck. The gray suit which he wore was badly wrinkled. His eyes were slightly bloodshot, and the pupils seem to be dilated.

When Dr. Lehane was sworn he straightened up for a moment and looked straight at the witness. Then he relaxed into his attitude of indifference.

"Will you describe what was found in the autopsy upon the body of Stanford White?" was the first thing asked of the physician.

Dr. Lehane replied that the autopsy had disclosed three bullet wounds in White's body. One bullet entered his head in the right upper eye lid. In passing it destroyed three teeth. Dr. Lehane said:

"There were powder burns all over the right side of the face from the edge of the hair to below the chin. There were two bullet wounds in the shoulder, half an inch apart."

#### White Doomed, Anyway.

A full description of the wounds was then given, the doctor testifying that death resulted from the wound in the head. The report, or a part of it, made by Dr. Lehane as to the physical condition of White was read to the jury. It showed that the architect had little longer to live, even had he been spared by Thaw, inasmuch as he was suffering from Bright's disease, incipient tuberculosis, and fatty degeneration of the liver.

When the doctor was excused Edward H. Convey who lives at 467 Second Avenue and describes himself as a foreman in the employ of the Madison Square Garden Company, was called. He had been working for the company, he said, for seven years, and knew Stanford White well.

"Did you see him on the night of June 25?" asked Mr. Garvan.

"I did, about two hours before the shooting. He entered the Garden alone. I saw him when he stepped off the elevator. He took a seat at a table on the Twenty-sixth Street side of the roof. It was about thirty-five feet from the main entrance, and about the same distance from the elevator."

"How did he sit at the table?"

"He didn't sit at the table exactly. He had his back to the table."

"Was anybody at the table with him?"

"No, he was alone."

"Did you see Thaw that night?"

"Yes."

"How long after White appeared was it?"

"About an hour and a half—perhaps a little longer."

"Where were you?"

"I was directly back of Mr. White, seated at a table perhaps twenty-five feet away."

"Did you see Mr. Thaw pass Mr. White?"

#### Waited Before Shooting.

"Yes, twice. He walked from the Twenty-fifth Street to the Twenty-sixth Street side, passing within fifteen feet of

me. He then walked to near the table where Mr. White was sitting and stood and looked at him. Then he went away and came back again in about ten minutes. As he did he passed the table where I was sitting. He was wearing an overcoat and had an umbrella in his right hand. After passing me he shifted the umbrella, placing it under his left arm."

"Did you see him shoot Mr. White?"

"No, but I saw a flash and Mr. Thaw's hand and arm extended in the direction of Mr. White. I did not see the pistol. There were three shots fired in rapid succession, and I saw Mr. White tumble to the floor."

The witness illustrated the manner in which Mr. White hit the floor by throwing himself forward face foremost, until his hands almost touched the floor. He was asked to continue his testimony.

"I started after the man with the pistol," he said, "but a fireman grabbed him just as I was about to take hold of him. The fireman took the gun away from him and told me to search the man while he held him, to see if he had any other weapons. I did so, but could find nothing except a wallet with some money in it."

"Did you hear any conversation?" Mr. Garvan asked.

"I heard him make some remarks, but I do not know what they were. He seemed very much excited. His face was very white, and the whites of his eyes were very large. I kept my eyes on him all the time. I turned the pistol over to a policeman who came up."

"Did you see any one with Thaw that night?"

"Two men came down in the elevator with him. There was a lady, too. The lady kissed Mr. Thaw, and said: 'Dearie, it's all right.' Thaw told one of the men to telephone somebody and the other man to take the lady to some hotel. Then the policeman took him away."

Fireman Paul Brudi of 697 Prospect Avenue, the Bronx, assigned to the Garden on the night of June 25, was the next witness. He said that he did not know Stanford White and did not see him on the night of the shooting until after he was dead.

"Did you see Thaw that night?"

"Yes. He was walking on the Twenty-fifth Street side of the roof. He wore a big kind of coat that looked ridiculous to me. That's why I remember him so well."

"Did you see him shoot Mr. White?"

"I heard the first shot and saw the last two. Then I went up and took the pistol away from him."

#### What Thaw Said.

"Did he say anything?"

"He said: 'That man ruined my life,' or 'ruined my wife,' I can't tell which."

Then the Assistant Chief Engineer came up, and I told him to search my prisoner."

"Did you see a young woman at the elevator?"

"Yes."

"Was it Mrs. Thaw?"

"I don't know Mrs. Thaw."

"Was anything said between them?"

"I don't remember."

"How did Thaw look?"

"He was very pale. His eyes were wide open and staring like."

Brudi was excused, and Warner Thaxton of 146 East Thirtieth Street, an engineer employed in the Garden, took the stand. He said that he had worked in and out of the building for three years, and that he was well acquainted with Mr. White. He did not know Thaw and had never seen him before the night of the shooting. He saw White enter the Garden on the night of June 25 at about 9:30 o'clock. He did not see Thaw before the shooting.

"Did you see the shooting?" Mr. Garvan asked, "and if so, please describe it."

"I was about twenty feet back of Mr. White. My attention was attracted by the first shot, and I saw the last two fired. The man with the pistol was standing up, about two feet away from Mr. White. After Mr. White had fallen to the floor I started after the man with the gun. Later I took charge of him. There were two men and a woman with him. I do not know whether or not the lady was his wife."

"Did you have any conversation with him?"

#### Saved Her Life, He Said.

"None whatever. I heard the lady say, 'Look at the fix we are in now,' and he answered, 'I've probably saved your life.'"

"Was that all you heard?"

"He said something like 'ruined my wife.' I can't remember the exact words."

"What was his appearance?"

"He was pale, but calm enough."

For the first time since the beginning of the proceedings counsel for the defense took a hand. Ex-Judge Olcott asked the witness if he saw anything unusual about the appearance of Mr. Thaw's eyes. The reply was that they were "staring." The light was not very good, he explained, when the lawyer persisted. He did not see Thaw hand the pistol over to the policeman, and did not notice whether or not Mrs. Thaw was excited. She was not crying—he had seen that much.

Anthony L. Debes, the policeman, testified that he knew White and that he saw him about half an hour before the shooting. He knew Thaw by sight. He was called to the Garden as a result of the shooting, and arrested Thaw, taking him down the elevator on the Twenty-sixth Street side.

"Did you have any conversation with Thaw, or did you hear him say anything?" Mr. Garvan inquired.

#### "Why That Way?"

"I heard him say, 'That man ruined my life,' or 'my wife.' I don't know just which. I saw a woman who, I understand, was Mrs. Thaw. She put her arms around his neck and asked him why he did it, or something like that. I think she said 'Why did you do it that way?'"

"Did he say anything to you?"

"He asked me where we were going, and I told him to the station house. At

the station house he said his name was James Smith, that he was 33 years old, white, a student, and lived in Washington."

"Did he answer clearly and distinctly?"

"Yes. He looked to me to be cool when he came down off the elevator, and there was nothing irrational about him."

Lionel Lawrence, the stage manager on the Madison Square roof, testified that he knew both White and Thaw. He said he saw White twenty-five minutes before the shooting and Thaw about two minutes before the shooting. He heard the first shot, and saw Thaw fire the others.

"What did you do after the shooting?"

"I ran immediately back to the stage and told the company to go on with the play. Then I hurried back and saw Fireman Brudi take the gun away from Thaw. I put my hands on Thaw's shoulder. Mrs. Thaw came up and threw her arms around her husband's neck. She said: 'Never mind, Harry, I'll stick to you through thick and thin.'"

"Did Thaw say anything?"

"He said: 'That ——— ruined my wife, and I fixed him.'"

"What was the appearance of Thaw?" asked ex-Judge Olcott.

"He was very white, and his eyes were staring out of his head. I don't know how else to describe him."

"Did he seem to be in a rational frame of mind?"

"I don't know what you would call 'rational,'" replied Lawrence.

Lawrence was excused, and Coroner Dooley addressed the jury.

"Gentlemen," he said, "you have the testimony given by the witnesses, and it now remains for you to do your duty."

#### The Jury's Verdict.

After a moment's hesitation the jury retired. While it was out Thaw talked with his lawyer and the policemen. He chatted unconcernedly. In three minutes the jury returned and announced that it had reached a verdict. The verdict was read by Frederick A. Baker, the stenographer, as follows:

"We find that the said Stanford White came to his death on the 25th day of June, 1903, at Madison Square Roof Garden, by cerebral hemorrhage, the result of a pistol shot wound of the skull inflicted at said time and place by Harry Kendall Thaw."

Thaw was seemingly paying no attention to what was going on. The Coroner called him. He didn't even look around.

"Mr. Thaw," the Coroner repeated, "Mr. Thaw."

Thaw advanced to the rail and stood still.

"Mr. Thaw," said the Coroner, "you are committed to the City Prison to await the action of the Grand Jury, without bail."

Thaw made no comment. He glanced at his lawyer and then stepped to his side. Then he turned to the Coroner.

"Mr. Dooley," he said, "may I use your telephone a moment?"

"Certainly," said Coroner Dooley.

Thaw moved to the telephone and called the office of the Society for the Suppression of Vice, his lawyer protesting. Thaw paid no attention to the protests, and when he had got the number he wanted he asked for "A. C." From his conversation it was evident that "A. C." was not in, but he instructed whoever was at the other end of the wire to tell "A. C." to go up to the Tombs at once, that Thaw wanted to see him "on pressing business."

#### Would Bar Comstock.

The two policemen then took Thaw in charge and carried him back to his cell. Ex-Judge Olcott, who followed, had a conference with Warden Flynn, telling that official of his client's message to Comstock.

"I do not want Comstock to see Mr. Thaw under any circumstances," he told the Warden. "If Comstock comes to the prison do not let him up."

The lawyer said that he had done his best to prevent Thaw from telephoning to Comstock, but that Thaw had shown exactly the same obstinacy he evinced when he refused to submit to examination by the alienists on Wednesday afternoon.

It was said at the Tombs that Thaw had received information since his imprisonment relative to the doings of White and several of the dead man's cronies, and that he wished to put Comstock in possession of the facts. He has received lots of letters since he was locked up; many of them came from women.

After the inquest H. B. Lynke, a lawyer, of 160 Fifth Avenue, called upon Coroner Dooley with an order from Mrs. Stanford White for the effects of her husband. The effects, which included a heavy gold ring of peculiar design, were turned over to him. The ring is a curiosity and is said to be worth several thousand dollars.

No sooner was the inquest over than the Thaw case was taken up by the Grand Jury. May MacKenzie, dressed all in black, and Mary Leahy, Mrs. Thaw's maid, were the first to appear in the ante-room. They were soon followed by Mrs. Thaw, who was accompanied by her counsel, Mr. Longfellow and ex-Judge Olcott. She had first been interviewed by Assistant District Attorney Garvan.

Mr. Garvan asked her if she was willing to testify, and she replied that under no circumstances would she say a word.

"You can do anything you like with me," she said. "You may send me to jail, but I will not testify against my husband. I will never do anything to harm Harry, and you may as well understand that now."

Mrs. Thaw was dressed in a quiet brown suit and seemed to be under a heavy nervous strain. When she entered the Grand Jury room both Assistant District Attorney Garvan and Acting District Attorney Nott were there. She told her name and age—twenty—and said she was Thaw's wife.

#### Mrs. Thaw Begged to be Spared.

"How long have you known Stanford White?" she was asked.

"I will not answer any questions," Mrs. Thaw declared, her voice trembling pitifully. "It is not right to torture me so. I am a wife, and cannot testify against my husband. You oughtn't to try to make me."

"Did you know anything of any trouble between your husband and Mr. White?" persisted Mr. Garvan.

"Please do not persist in questions so painful to me," Mrs. Thaw begged. "This whole thing is too dreadful for me to discuss."

Mr. Garvan turned to the jurors.

"Gentlemen," he said, "Mrs. Thaw declines to answer the questions propounded to her. Under the circumstances the District Attorney will not persist in the attempt to force her to do so. Unless you are opposed to it, Mrs. Thaw may retire."

The Grand Jurors were apparently willing. Mrs. Thaw needed no second intimation that she might leave. She hastily quit the room, and on rejoining her lawyer in the corridor told him that she "had been treated most courteously," and expressed at some length her appreciation of the kindness shown to her.

Slipping down an unrequented stairway, Mrs. Thaw gained the street, still accompanied by ex-Judge Olcott. An electric cab was waiting, and jumping into the vehicle they were whisked to the entrance of the Tombs. A crowd had gathered there in anticipation of her coming, and it was again necessary to call in the services of the Elizabeth Street police reserves.

Mrs. Thaw remained in the Tombs for perhaps half an hour. Mr. Olcott was still with her. As on the previous visit Thaw and his wife kissed through the bars of the cell, and then talked until the time allotted for the visit had expired. After leaving the Tombs Mrs. Thaw was driven to her hotel.

Meanwhile the Grand Jury was making short work of the Thaw case. The witnesses examined before the Coroner were heard, and at 1:30 o'clock the jury returned an indictment charging Thaw with murder in the first degree.

Counsel for the defense were notified of the finding of the indictment, and Thaw will plead to it this morning before Judge Cowing. The finding of the indictment did not end the work of the Grand Jury, which was immediately called upon to take up the John Doe inquiry.

May MacKenzie, Mrs. Thaw's intimate friend, was the first witness examined under this proceeding. She was questioned at length. When she left she was resubpoenaed for further examination if she is wanted.

Neither Acting District Attorney Nott nor Assistant District Attorney Garvan consented to discuss the John Doe proceeding, which, it is expected, will make a stir in the ranks of the known associates of White and Thaw. Mr. Nott said a couple of days ago that the life of the murdered man as well as the past of the murderer would be investigated.

Since Stanford White's death not one of his friends has undertaken to defend his good name. Several men who were close to White have been asked for statements and have declined to give them.

Prison life is wearing on Thaw. He did not sleep well on Wednesday night, and his appetite was light yesterday. In the morning, before the inquest, he took a sponge bath and then exercised in the corridor for half an hour. After his return from the inquest he was shaved by the prison barber. Then he read his mail, which included a letter, it is believed, which made him wish to see Comstock.

Last night Thaw called for all the newspapers published in this city and was busy reading until bed time.